

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

ROSA CAMARILLO,

Plaintiff,

v.

LOWE'S HOME CENTERS, INC. and
LOWE'S HOME CENTERS, LLC

Defendants.

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CIVIL ACTION NO. 1:20-cv-200
JURY TRIAL DEMANDED

**DEFENDANT LOWE'S HOME CENTERS, LLC'S
NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. § 1441 and Local Rule CV-81, Defendant LOWE'S HOME CENTERS, LLC, hereby removes to this Court, the state court action described in Paragraph 1 below. Pursuant to 28 U.S.C. § 1446(a), Defendant sets forth the following "short and plain statement of the grounds for removal."

A.

THE REMOVED CASE

1. The removed case is a civil action first filed with the 444th Judicial District Court of Cameron County, Texas, on October 27, 2020, styled *Rosa Camarillo v. Lowe's Home Centers, Inc. and Lowe's Home Centers, LLC*, under Cause No. 2020-DCL-05234.

B.
DOCUMENTS FROM REMOVED ACTION

2. Pursuant to Local Rule CV-81, Defendant attaches the following documents to this Notice of Removal:

1. An index of matters being filed;
2. All executed process in the case;
3. Pleadings asserting causes of action (e.g., petitions, counterclaims, cross actions, interventions, and all answers to such pleadings);
4. All orders signed by the state judge;
5. The docket sheet; and
6. A list of all counsel of record, including addresses, telephone numbers and parties represented.

The aforementioned documents are attached to this Notice of Removal as ***Exhibit*** “A.”

C.
REMOVAL IS TIMELY

3. Plaintiff, Rosa Camarillo, (hereinafter referred to as "Plaintiff"), filed the present civil suit against Defendant Lowe's Home Centers, LLC, in the 444th Judicial District Court of Cameron County, Texas (the "State Court Action"), on October 27, 2020. Plaintiff served LOWE'S with Plaintiff's Original Petition and Discovery Requests (to Defendant Lowe's) (the "Petition"), on November 2, 2020. In the Petition, Plaintiff asserts negligence causes of action against Lowe's based on an alleged personal injury sustained by Plaintiff at Lowe's store located at 4705 S. Expressway, 77/83. Harlingen, Texas 78550.

4. Since the thirtieth day of service of the Petition on Lowe's falls on December 2, 2020, this Notice of Removal is filed timely pursuant to 28 U.S.C. § 1446(b).

D.
VENUE IS PROPER

5. The United States District Court for the Southern District of Texas, Brownsville Division, is the proper venue for removal of the State Court Action pursuant to 28 U.S.C. § 1441(a) because the 444th Judicial District Court of Cameron County, Texas, is located within the jurisdiction of the United States District Court for the Southern District of Texas, Brownsville Division.

E.
DIVERSITY OF CITIZENSHIP EXISTS

1. This is a civil action that falls under the Court's original jurisdiction pursuant to 28 U.S.C. § 1332 and is one that may be removed to this Court based on diversity of citizenship in accordance with 28 U.S.C. §§ 1441 and 1446. Removal is proper because there is complete diversity between all of the parties.

2. At the time of the filing of the Petition, Plaintiff, Rosa Camarillo was and still is, to Defendant's knowledge, a resident of Cameron County, Texas.

3. Defendant LOWE'S HOME CENTERS, LLC, is a foreign Limited Liability Company organized and existing under the laws of the State of North Carolina and a resident of the State of North Carolina. The Limited Liability Company is comprised of six managing members, Akinjide Falaki who is domiciled in and a resident of the State of North Carolina; David R. Green, who is domiciled in and a resident of the State of North Carolina; Beth R. MacDonald who is domiciled in and a resident of the

State of North Carolina, Tiffany L. Mason, who is domiciled in and is a resident of the State of North Carolina; Brandon J. Sink, who is domiciled in and a resident of the State of North Carolina, and Gary White, who is domiciled in and a resident of the State of North Carolina. Additionally, LOWE'S principal office is located at 1000 Lowe's Boulevard, Mooresville, North Carolina 28117. Pursuant to 28 U.S.C. § 1332(c)(1), LOWE'S is not a resident of the State of Texas.

4. Because the Plaintiff is a resident of the State of Texas and Defendant LOWE'S and all of its members are residents of the State of North Carolina, complete diversity of citizenship exists between all parties to this lawsuit pursuant to 28 U.S.C. § 1332.

F.

THE AMOUNT IN CONTROVERSY REQUIREMENT IS SATISFIED

5. In the Petition, the Plaintiff alleges that she seeks damages "the maximum of which is over \$250,000.00, but not more than \$1,000,000.00."

6. Based on the aforementioned facts pled in the Petition, the State Court Action may be removed to this Court by Defendant Lowe's in accordance with the provisions of 28 U.S.C. § 1441(a) because: (i) this is a civil action pending within the jurisdiction of the United States District Court for the Southern District of Texas; (ii) this action is between citizens of different states; and (iii) the amount in controversy as specifically pled by the Plaintiff exceeds \$75,000, exclusive of interest and costs.

G.

FILING OF REMOVAL PAPERS

7. Pursuant to 28 U.S.C. § 1446(d), Defendant Lowe's is providing written notice of the filing of this Notice of Removal to all counsel of record and is filing a copy

of this Notice with the Clerk of the 444th Judicial District Court of Cameron County, Texas, in which this action was originally commenced.

H.
CONCLUSION

8. Defendant LOWE'S HOME CENTERS, LLC hereby prays that the above-captioned action be removed from the 444th Judicial District Court of Cameron County, Texas, and requests that further proceedings be conducted in the United States District Court for the Southern District of Texas, Brownsville Division, as provided by law.

Respectfully submitted,

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**ATTORNEYS FOR DEFENDANT
LOWE'S HOME CENTERS, LLC**

CERTIFICATE OF SERVICE

This is to certify that on the 2nd day of December 2020, a true and correct copy of the foregoing has been forwarded to all counsel of record as follows:

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☒ E-MAIL/E-SERVICE
☐ HAND DELIVERY
☐ FACSIMILE
☐ OVERNIGHT MAIL
☐ REGULAR, FIRST CLASS MAIL
☐ CERTIFIED MAIL/RETURN RECEIPT
REQUESTED

ATTORNEYS FOR PLAINTIFF

Rima C. Patel

Rima C. Patel